REMARKS/ARGUMENTS

This document is filed in response to the Office Action of March 9, 2004. The Examiner has raised the following objections and rejections.

(a) The Examiner has objected to the specification and required that a substitute specification be submitted.

(b) The Examiner has objected to informalities in claims 12 and 41.

(c) The Examiner has rejected all of the claims under 35 USC Section 103.

The balance of this document will address each of the issues listed above.

Substitute Specification:

The Applicant acknowledges the Examiner's request for a substitute specimen. The examiner has objected to the specification because of the number or nature of the amendments that have been entered. The Applicant will be submitting a substitute specification shortly.

Claims Informalities

The Examiner has objected to claims 12 and 41. The Examiner was uncertain whether the word "restructions" in claim 12 was meant to be "restrictions" as used in claim 41. The Applicant has amended claim 12 to replace the word "restructions" with the word "restrictions". The meaning of both claims 12 and 41 is now clear.

Claims Rejections Under 35 USC Section 103

The Examiner has rejected all of the claims under 35 USC Section 103(a). Specifically, the Examiner has stated the following rejections:

The Examiner has rejected claims 1-2, 32, and 34 under 35 USC Section 103(a) in light of US patent 5,995,947, issued to Fraser et al., over US patent 5,940,812, issued to Tengel et al.

The Examiner has rejected claims 3-24, 30, 43-48, and 55 under 35 USC Section 103(a) in light of US patent 5,995,947, issued to Fraser et al., and US patent 5,940,812, issued to Tengel et al., in view of US patent 6,192,347, issued to Graff.

The Examiner has rejected claims 25-28, 31, 49-54, 56-59, and 62-64 under 35 USC Section 103(a) in light of US patent 5,995,947, issued to Fraser et al., and US patent 5,940,812, issued to Tengel et al., and US patent 6,192,347, issued to Graff, in view of Dictionary of Business Terms.

Traverse of Examiner's Rejections under 35 USC Section 103(a)

The Applicant has carefully reviewed the Examiner's arguments. The applicant has amended each of the independent claims (1 and 32) to add the following limitations. These limitations are fully supported in the specification and drawings of the application.

"making a loan origination fee paid to the loan originator at a time of closing on the mortgage loan legally compliant with the guidelines of the Real Estate Settlement Procedures Act ("RESPA");"

"wherein the loan originator is not the loan customer."

The Applicant respectfully asserts, as will be discussed in more detail below, that none of the prior art cited by the Examiner includes the above-listed novel and non-obvious limitations.

Discussion of the Cited Prior Art:

The Applicant finds that Fraser (US 5,995,947) does not teach mortgage origination through a loan originator distinct from the loan broker and the lender. Consider Figure 1 of Fraser. There are broker stations and lender stations, but no distinct loan originator stations. Consider Figure 2 of Fraser. There are paths for borrower/broker entry, lender entry, accept bid, and qualify borrower.

This is the only other figure in the patent. Nowhere are the system interface or operational process of a loan originator distinct from the loan broker shown, disclosed, taught or suggested.

The Applicant finds that Tengel et al. (US 5,940,812) does not teach mortgage origination through a loan originator distinct from the loan customer, the loan broker and the lender. Consider Figure 1 of Tengel. There are consumer terminals and lender terminals. There are no distinct loan originator terminals. There are no distinct loan broker terminals. Nowhere in the Figures nor in the text of this patent are these distinct elements shown, disclosed, taught or suggested.

The Applicant finds that all the cited prior art, taken individually or collectively, does not show, disclose, teach or suggest a loan originator distinct from the loan customer, the loan broker and the lender.

The Applicant further finds that all the cited prior art, taken individually or collectively, does not show, disclose, teach or suggest that the loan originator providing services necessary for the origination of the mortgage loan and not duplicative of services provided by the loan broker.

The Applicant further finds that all the cited prior art, taken individually or collectively, does not show, disclose, teach or suggest these activities make a loan origination fee paid to the loan originator, at a time of closing on the mortgage loan, legally compliant with the guidelines of the Real Estate Settlement Procedures Act ("RESPA").

Discussion of the Claims:

Regarding the rejection under 35 U.S.C. 103(a) of Claims 1 and 32 (as amended), the Applicant finds Fraser (US 5,995,947) does not disclose and does not teach the following: A loan originator, distinct from the loan broker, performing necessary services, which are not duplicative of the loan broker, for the origination of a loan. RESPA does not support loan origination fees being paid to the loan originator without such these elements, as already mentioned and cited from paragraph [7] of the patent application.

The Appendix contains an article entitled "Stay in Tune with RESPA", which points out the necessity of RESPA compliance in situations involving a loan originator other than the loan broker. A discussion of RESPA compliance for loan originators distinct from loan brokers was unnecessary for the cited prior art, because the elements of the invention, a loan originator distinct from the loan broker and the lender, were not present.

These elements of the invention are not accidental, but as indicated by the previously submitted copy of a letter from a lawyer to one of the inventors, was an intentional, researched, and necessary part of the invention. The Applicants submit that neither Fraser nor Tengel (US 5,940,812) teach or suggest these limitations. The Applicants submit that they cannot be combined to provide them. The Applicant respectfully requests that the Examiner remove the rejection from these Claims, and that they be placed in a condition for allowance.

Claims 2, 3, 12 to 20, 22 to 25, 27 to 29, 31, and 60 to 63 are dependent upon Claim 1. Based upon the above argument for Claim 1, as well as the discussion of the cited prior art, and novel and nonobvious features claimed in these claims, the Applicant believes these Claims are patentable in light of the cited prior art. The Applicant requests that the Examiner remove the rejection of these Claims, and place them in condition for allowance.

Claim 33 to 43, 45, 46, 48 to 50, 52 to 56, 58 and 59 are dependent upon Claim 32. Based upon the above argument for Claim 32, as well as the discussion of the cited prior art, and novel and nonobvious features claimed in these claims, the Applicant believes these Claims are patentable in light of the cited prior art. The Applicant requests that the Examiner remove the rejection of these Claims, and place them in condition for allowance.

Other Matters

The following claims have been amended as seen below, either to correct typographical errors, or to amend dependency as a result of the cancellation of claims on which they depend.

27. (Amended) The data processing system recited in Claim ~~26~~1,

wherein the loan originator is at least one member of the collection comprising: a real estate broker, a real estate agent, a home builder, an FSBO, and a relocation company.

28. (Amended) The data processing system recited in Claim ~~26~~1,

wherein the loan originator is at least one member of the financial planning professional collection comprising: a financial planner, a CPA, a broker, a dealer, a broker and dealer, a stock broker, an insurance broker, an insurance agent, an insurance broker and agent, and an attorney.

29. (Amended) The data processing system recited in Claim ~~26~~1,

wherein the loan originator is a member of the financial institution collection comprising a bank, a savings and loan, a thrift, and a credit union.

48. (Amended) The method recited in Claim 32,

wherein the disclosure documents include a notice disclosure statement further including an estimate of ~~a~~ the loan origination fee to be paid to the loan originator~~.~~,

wherein the method is further comprised of the step of:

the loan customer paying the loan origination fee.

52. (amended) The method recited in Claim ~~51~~ 32,

wherein the loan originator is at least one member of the collection comprising: a real estate broker, a real estate agent, a home builder, an FSBO, and a relocation company.

53. (amended) The method recited in Claim ~~51~~ 32,

wherein the loan originator is at least one member of the financial planning professional collection comprising: a financial planner, a CPA, a broker, a dealer, and a broker and dealer, a stock broker, an insurance broker, an insurance agent, an insurance broker and agent, and an attorney.

54. (amended) The method recited in Claim ~~51~~ 32,

wherein the loan originator is a member of the financial institution collection comprising a bank, a savings and loan, a thrift, and a credit union.

55. (amended) The method recited in Claim ~~51~~ 32,

wherein the loan application includes an estimate of the loan origination fee;

wherein the method is further comprised of the step of:

the loan customer paying the loan origination fee.

62. (amended) The data processing system recited in Claim 1,

wherein the loan originator is at least one member of the collection comprising: a real estate broker, a real estate agent, a home builder, an FSBO, and a relocation company.

63. (amended) The data processing system recited in Claim 1,

wherein the loan originator is at least one member of the financial planning professional collection comprising: a financial planner, a CPA, a broker, a dealer, a broker and dealer, a stock broker, an insurance broker, an insurance agent, an insurance broker and agent, and an attorney.

Conclusion

The Examiner is thanked for the patience and insight shown the Applicant. For all the reasons above, the Applicant submits that the claims all define novel subject matter that is nonobvious. Therefore, allowance of these claims is submitted to be proper and is respectfully requested.

If we may be of any assistance in this case, please feel free to contact Earle Jennings or Gregory Smith at (510) 742-7417.

Very respectfully submitted,

Gregory Scott Smith
Gregory Smith & Associates
3900 Newpark Mall Rd
Third Floor, Suite 317
Newark, CA 94560

Reg. No. 38,309
Phone (510) 742-7417
Fax (510) 742-7419

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as attached hereto, addressed to the Mail Stop Commissioner of Patents, PO Box 1450, Alexandria, VA 22313, will be deposited with the U.S. Postal Service as first class mail with sufficient postage at Newark on June 4, 2004.

Signature _____ Date: June 4, 2004
Gregory Smith